



ENVIRONMENTAL PROTECTION AGENCY

6560-50-P

40 CFR Part 52

EPA-R09-OAR-2012-0236; FRL-9670-8

Revisions to the California State Implementation Plan,
South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from cement manufacturing facilities. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the Federal Register to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2012-0236, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the

on-line instructions.

2. E-mail: steckel.andrew@epa.gov.

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are

available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947-4125, vineyard.christine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to EPA.

Table of Contents

I. The State's Submittal

- A. What rule did the State submit?
- B. Are there other versions of this rule?
- C. What is the purpose of the submitted rule revision?

II. EPA's Evaluation and Action

- A. How is EPA evaluating the rule?
- B. Does the rule meet the evaluation criteria?
- C. EPA recommendations to further improve the rule
- D. Public comment and final action

III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California.

Table 1 - Submitted Rule

Local Agency	Rule #	Rule Title	Adopted	Submitted
SCAQMD	1156	Further Reductions of Particulate Emissions from Cement Manufacturing Facilities	03/06/09	04/29/09

On July 20, 2009, EPA determined that the submittal for SCAQMD Rule 1156 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

EPA approved an earlier version of Rule 1156 into the SIP on March 10, 2008 (72 FR 12639). SCAQMD adopted a revision to the SIP-approved version on March 6, 2009 and CARB submitted it to us on April 29, 2009.

C. What is the purpose of the submitted rule revision?

PM contributes to effects that are harmful to human health

and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. Revised Rule 1156 would require total enclosure of clinker storage and handling conducted within 1000 feet from, and inside, a facility's property line. Rule 1156 would allow the use of alternatives, such as a three-sided barrier covered with a roof and wind fence for active barn-type storage, tarp and barrier/wind fence for other active piles, and tarp for inactive piles. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(1) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)). The SCAQMD regulates a PM nonattainment area classified as

serious (see 40 CFR part 81), so Rule 1156 must implement BACM/BACT.

Guidance and policy documents that we use to evaluate enforceability and BACM/BACT requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 Federal Register Notice," (Blue Book), notice of availability published in the May 25, 1988 Federal Register.
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).
5. "PM-10 Guideline Document," EPA 452/R-93-008, April 1993.
6. "Fugitive Dust Background Document and Technical Information

Document for Best Available Control Measures," EPA 450/2-92-004, September 1992.

7. Standards of Performance for Portland Cement Plants (40 CFR Ch.1 (7-1-09 Edition), Subpart F §60.60).

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, BACM, and SIP relaxations. The TSD has more information on our evaluation.

C. EPA recommendations to further improve the rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

D. Public comment and final action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this Federal Register, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by [Insert date 30 days from date of publication in the Federal Register], we will publish a timely withdrawal in the Federal Register to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final

action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [Insert date 60 days from date of publication in the Federal Register]. This will incorporate the rule into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible

methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States

Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirement.

Dated: 4/24/2012

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 -- [AMENDED]

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart F - California

2. Section 52.220 is amended by adding paragraph (c)(362)(i)(B)(2) to read as follows:

§52.220 Identification of plan.

* * * * *

(c) * * *

(362) * * *

(i) * * *

(B) * * *

(2) Rule 1156, "Further Reductions of Particulate Emissions from Cement Manufacturing Facilities," amended on March 6, 2009.

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